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contract arising between his principal and the defendant company. *North River Bank* v. *Aymar*, 3 Hill (N. Y.) 262. But his subsequent attempt to create a different contract and to incorporate it in the policy should have been held futile, since an original contract of insurance cannot be formed when the insured knows the property has been destroyed. *Wales* v. *Bowery Fire Ins. Co.*, 37 Minn. 106, 33 N. W. 322. Nor does it matter that when the policy was executed the plaintiff did not know it was a new contract, or that his agent did not know of the loss of the property, for the objection is not bad faith but lack of consideration. Thus the policy was absolutely void and could not become the written understanding of the parties by merging the oral contract. *Nebraska, etc. Ins. Co.* v. *Seivers*, 27 Neb. 541, 43 N. W. 351. *Cf. Pratt* v. *Dwelling House, etc. Ins. Co.*, 130 N. Y. 206, 217, 29 N. E. 117. Hence the defendant company did not seek to traverse the parol evidence rule by showing that the parties intended to make an agreement different from that summed up in the policy; its aim was simply to prove that the latter was not a contract because of the nonexistence of conditions required for the formation of a contract. *Pym* v. *Campbell*, 6 E. & B. 370. See 4 WIGMORE, EVIDENCE, § 2400. The resulting conclusion is that the court erred in disallowing evidence of the prior agreement to prove that the policy was an original agreement and void. *Salisbury* v. *Hekla Fire Ins. Co.*, 32 Minn. 458, 21 N. W. 552. *Contra, Ins. Co.* v. *Lyman*, 15 Wall. (U. S.) 664. Mistaking the parol evidence rule for a rule of evidence, when in fact it is a principle of substantive law, is the source of the error. See THAYER, PRELIMINARY TREATISE ON EVIDENCE, 397.

LANDLORD AND TENANT — CONDITIONS AND COVENANTS IN LEASES — IMPLIED COVENANT BY LANDLORD NOT TO INTERFERE WITH TENANT'S USE OF THE PREMISES. — In a lease was a covenant of quiet enjoyment by the landlord and a covenant by the tenant to conduct a restaurant on the premises. The landlord let adjoining premises to be used for noisy auction rooms. The tenant sues the landlord. *Held*, that he may recover. *Malzy* v. *Eicholz*, 32 T. L. R. 152 (K. B. Div.).

In an ordinary contract it is a condition to the promisee's right to enforce the promise that he does nothing to interfere with its performance. *Peck* v. *United States*, 102 U. S. 64; *European, etc. Co.* v. *Royal, etc. Co.*, 30 L. J. C. P. 247. Some cases hold that a promise by each party not to interfere with the performance of the other is necessarily implied from the express contract of the parties. *Patterson* v. *Meyerhofer*, 204 N. Y. 96, 97 N. E. 472; *Levy and Hipple Motor Co.* v. *City Motor Cab Co.*, 174 Ill. App. 20. See 17 HARV. L. REV. 46. It is true that in these latter cases the injury which the plaintiff complained of was the deprivation of the profits which he would have made, had he been able by performing his promise to put himself in a position to demand the performance of the defendant's express promise. But it cannot affect the implication of the promise, that the damages from its breach have no connection with the express contract. Some courts regard an interference by a landlord with the tenant's expected use of the premises as a breach of the landlord's covenant of quiet enjoyment. *Tebb* v. *Cave*, [1900] 1 Ch. 642; *McDowell* v. *Hyman*, 117 Cal. 67, 48 Pac. 984. *Contra, Tucker* v. *Du Puy*, 210 Pa. St. 461, 60 Atl. 4. And in England such an interference is also actionable as being a derogation from the grant of the landlord. *Grosvenor Hotel Co.* v. *Hamilton*, [1894] 2 Q. B. 836. But it is submitted that the principal case is best supported by implying, on the above principles of contracts, a covenant that the landlord will not interfere with the tenant's performance of his agreement to use the property in a certain way.

RENT CHARGES — ESTATE TAIL — EFFECT OF DISENTAILING ASSURANCE. — A tenant in fee simple of lands granted a rent charge issuable out of the